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defines other words and terms commonly used in the DOL acquisition process.

(b) The following words and terms are used as defined in this subpart unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular part or portion of a part:

Competition Advocate The Competition Advocate for the Department of Labor is appointed by the Assistant Secretary for Administration and Management and is defined in FAR 6.5 and 2906.5. If the appointee is recused from a procurement action, the Assistant Secretary for Administration and Management may designate another official to act in that capacity.

Contracting Activity means an agency or component office within the Department of Labor with specific responsibility for managing contract functions pursuant to one or more warrants signed by the Senior Procurement Executive (or the Office of the Inspector General for its contracting activity).

Contracting Officer's Technical Representative means the individual appointed by the contracting officer to represent the Department of Labor's programmatic interests on a Department of Labor contract, task order, or delivery order. This individual is responsible to the contracting officer for overseeing receipt and acceptance of goods/services by the Government, reporting on the contractor's performance, and approving/disapproving payment to the contractor. Authority is otherwise limited to giving technical direction to the contractor within the framework of the contract (see 2901.603-71). This position may go by other titles, such as: a technical point of contact (TPOC) or Contracting Officer's Representative (COR).

Head of Agency (also called agency head), for the FAR and DOLAR only, means the Assistant Secretary for Administration and Management; except that the Secretary of Labor is the Head of Agency for acquisition actions, which by the terms of a statute or delegation must be performed specifically by the Secretary of Labor; the Inspector General is the Head of Agency in all cases for the Office of the Inspector General. Authority to act as the Head

of Agency has been delegated to the Assistant Secretary for Employment and Training and the Assistant Secretary for Mine Safety and Health for their respective agencies. For purposes of the Economy Act (determinations and interagency agreements under FAR 17.5) only, the Employee Benefits Security Administration, Employment Standards Administration, Women's Bureau, Office of the Solicitor, Bureau of Labor Statistics, Office of Disability Employment Policy, and the Occupational Safety and Health Administration are delegated contracting authority.

Head of Contracting Activity (HCA) means the official who has overall responsibility for managing the contracting activity, when the contracting activity has more than one person with a warrant issued by the Senior Procurement Executive. In the Department of Labor the following officials are the HCA for their respective organization:

(i) For the Mine Safety and Health Administration, the Director, Administration and Management, MSHA.

(ii) For the Employment and Training Administration, the Director, Office of Grants and Contract Management, ETA.

(iii) For the Office of the Inspector General, the Director, Division of Finance and Administration, OIG.

(iv) For the Bureau of Labor Statistics, the Director, Division of Administrative Services, BLS.

(v) For the Office of the Assistant Secretary for Administration and Management and all other agencies not listed in this definition, the Director, Business Operations Center, OASAM.

Senior Procurement Executive means the Deputy Assistant Secretary for Administration and Management as defined at FAR 2.101.

[69 FR 22991, Apr. 27, 2004]

PART 2903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c).

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Subpart 2903.1—Safeguards

2903.101 Standards of conduct.

2903.101-1 General.

The statutory prohibitions and their application to DOL personnel are discussed in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635 and the supplemental DOL standards of conduct, 5 CFR part 5201. All DOL personnel involved in acquisitions must become familiar with these statutory prohibitions. Any questions concerning them must be referred to an Agency Ethics Official in the Office of the Solicitor. In addition to criminal penalties, the statutes provide that transactions entered into in violation of these prohibitions are voidable (18 U.S.C. 218). Any suspected violations must be reported promptly to the Office of the Inspector General.

2903.104 Procurement integrity.

2903.104-3 Definitions.

Agency ethics official means the Solicitor or the Associate Solicitor for Legislation and Legal Counsel.

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2903.104-5 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) Government employees serving in the following positions are authorized access to proprietary or source selection information, but only to the extent necessary to perform their official duties:

(1) Personnel participating in technical evaluation panels (*i.e.*, source selection board) or personnel evaluating an offeror's or bidder's technical or cost proposal under other competitive procedures, and personnel evaluating protests.

(2) Personnel assigned to the contracting office.

(3) The initiator of the procurement request (to include the official having principal technical cognizance over the requirement).

(4) Small business specialists.

(5) Personnel assigned to the Office of the Solicitor.

(6) Personnel assigned to the Department of Labor's Division of Cost Determination and the Defense Contract Audit Agency.

(7) Personnel assigned to the Division of Acquisition Management Services.

(8) Members of the Procurement Review Board.

(9) The Office of the Inspector General.

(10) Other Government employees authorized by the contracting officer.

(11) Supervisors, at any level, of the personnel listed in this paragraph (a).

(b) The originator of information that may be source selection information must consult with the contracting officer or the procurement officer, who must determine whether the information is source selection information. DOL personnel responsible for preparing source selection information as defined in FAR 2.101 must assure that the material is marked with the legend in FAR 3.104-4 at the time the material is prepared.

(c) Unless marked with the legend "SOURCE SELECTION INFORMATION—SEE FAR 3.104-4," draft specifications, purchase descriptions, and statements of work could erroneously be released during a market survey in order to determine the capabilities of

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potential competitive sources (see FAR 7.1 and FAR 10).

2903.104-7 Violations or possible violations of standards of conduct.

(a) The Senior Procurement Executive is the individual designated to receive the contracting officer's report of violations.

(b) The HCA or designee must refer all information describing an actual or possible violation to the Associate Solicitor for Legislation and Legal Counsel, the Senior Procurement Executive, and Inspector General staff.

Subpart 2903.2—Contractor Gratuities to Government Personnel

2903.203 Reporting suspected violations of the Gratuities clause.

Contractor gratuities offered to Government personnel are subject to the restriction under the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635.

2903.204 Treatment of violations.

Any suspected violations of FAR subpart 3.2 and the clause at FAR 52.203-3, Gratuities, must be reported to the Office of the Inspector General. The authority to determine whether a violation of the Gratuities clause by the contractor, its agent, or another representative, has occurred and the appropriate remedies are delegated to the HCA.

Subpart 2903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

2903.601 Policy.

In addition to restrictions placed on current Federal government employees, 18 U.S.C. 207 places some restrictions on contracting with former officers, employees, and elected officials of the executive and legislative branches. Under these prohibitions, contracts with former employees are prohibited for a period of one year from the date of severance of duties, unless an exception is granted as set forth in 2903.602.

2903.602 Exceptions.

(a) In accordance with FAR 3.602, only when there is a most compelling reason to do so, is the Assistant Secretary for Administration and Management authorized to except a contract from the policy in FAR 3.601, after the Procurement Review Board and the agency ethics official have reviewed and recommended approval of the exception. However, when time does not permit, the Assistant Secretary for Administration and Management may unilaterally approve an exception. The exception and information supporting the exception must be provided to the contracting officer for their official records.

(b) When an exception under this subpart is requested, it is submitted through the director of the cognizant program office to the HCA. In the procurement request, the director must describe the basis for the exception from the restrictions of FAR 3.601.

(c) Except as allowed in paragraph (a) of this section, the Department of Labor may enter into a negotiated contract or an amendment to an existing contract with former employees of DOL within one year of separation (or with firms in which former employees are known to have a substantial interest) only after review and recommendation for approval by the agency ethics official, the Procurement Review Board, and written approval by the Assistant Secretary for Administration and Management.

(d) Approval of a decision to grant an exception as provided in this section must be documented by a written findings and determination prepared by the requesting official for signature by the Assistant Secretary for Administration and Management. The determination and findings must document compliance with FAR 3.603, FAR 9.5 and DOLAR 2909.5; specify the compelling reason(s) for award; and be placed in the contract files and the files of the Policy Review Board.